



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

54

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,750	04/10/2001	Majid Chelehma	Cabl.02US01	3268
27479	7590	08/09/2005	EXAMINER	
COCHRAN FREUND & YOUNG LLC			FISH, JAMIESON W	
2026 CARIBOU DR			ART UNIT	PAPER NUMBER
SUITE 200				
FORT COLLINS, CO 80525			2617	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p style="text-align: center;">Advisory Action Before the Filing of an Appeal Brief</p>	Application No.	Applicant(s)
	09/832,750	CHELEHMAL ET AL.
	Examiner	Art Unit
	Jamieson W. Fish	2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) The period for reply expires _____ months from the mailing date of the final rejection.
b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a) They raise new issues that would require further consideration and/or search (see NOTE below);
(b) They raise the issue of new matter (see NOTE below);
(c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): _____.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,4-9,12-16.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Detailed Action.

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 07-18-2005 have been fully considered but they are not persuasive. The applicant argues with respect to claim 12 that: 1. There is no mention in Norsworthy of a managed network (See Remarks Page 6 Paragraph 5), 2. That the high bandwidth networks of Norsworthy do not provide "a guaranteed quality of service (See Remarks Pg 6 Paragraph 5)," 3. That there is no disclosure in Norsworthy of "a content provider...that provides a listing of video data available from the content provider (See Remarks Pg. 7 Paragraph 1)." 4. That Norsworthy does not disclose, "delivering video data on-demand (See Remarks Pg. 7 Paragraph 2)." 5. That there is no disclosure of a translator for translating an IP transport mechanism to an MPEG transport mechanism in the head end (See Remarks Pg. 7 Paragraph 3).

The applicant argues with respect to claims 1, 4, 6 Norsworthy in combination with Ahmed et al fails to disclose: 6. A managed network with a guaranteed quality of service (See Remarks Pg. 7 Paragraph 6), 7. A content server that provides a listing of video data (See Remarks Pg. 7 Paragraph 6), 8. A translator located at the head end (See Remarks Pg. 7 Paragraph 6).

The applicant argues with respect to claims 5 and 7-9, that: 9. Mimura does not disclose that RTP is well known in the art (See Remarks Pg. 8 Paragraph 3), 10. There is no motivation stated for the combination of Norsworthy, Ahmed and Mimura (See Remarks Pg. 8 Paragraph 3).

In response to argument 1 as described above: The applicant refers to the high bandwidth connection 106 that is connected to the Internet and a high bandwidth link 109 that is connected between the ISP 103 and the head end 108 as "high bandwidth networks." This statement is interpreted as the applicant admitting that Norsworthy teaches a network. Since the applicant admits that Norsworthy teaches a network, the basis for applicant's argument must be that the network is not a managed network i.e. the network is an unmanaged network. For the network to be unmanaged would imply that at no point in time did any individual oversee the construction of the network. This of course is impossible. Thus, the network is a managed network.

In response to argument 2 as described above: As presented in the Final Rejection (Paragraph 4) Norsworthy discloses, "the user receives a guaranteed bit rate and their desired quality of service (Col. 8 lines 14-18)." Also, all networks are guaranteed to provide a minimum quality of service. Since this minimum quality of service is guaranteed, it is a guaranteed quality of service.

In response to argument 3 as described above: As presented in the Final Rejection (Paragraph 4) Norsworthy discloses that the ISP uses a known search engine to allow the user to search for video information. Known search engines, such as Yahoo or Alta Vista (See Norsworthy Col. 1 lines 27-30), return a list of results based on a query. This list of results is provided to the search engine from the sources it searches, which in this case would be various content providers. Thus, the content providers ultimately provide a listing of video data available from the content provider.

In response to argument 4 as described above: As presented in the Final Rejection (Paragraph 4) Norsworthy discloses that a user requests content and after the request is received the data is scheduled to be delivered to the user. Further evidence of this is found in Norsworthy Col. 2 lines 25-33. The fact that the delivery of the data is scheduled does not imply that the data is not delivered on demand. Regardless of the fact the delivery of data is scheduled, the data is still sent to the user after the user makes the request. This constitutes delivering video data on demand.

In response to argument 5 as described above: As presented in Final Rejection (Paragraph 4) Norsworthy clearly teaches high bandwidth link 109 "as multiple T-1 connections or a T-3 connection (See Col. 5 line 22)" and connections 112 as a radio frequency television broadcast medium and 113 as a cable television broadcast medium (See Col. 5 lines 22-59). Norsworthy also clearly shows that the cable plant 108 receives data from the ISP via high bandwidth connection 109 (See Fig. 1) and that PCs 101 receive data from the cable plant through connections 112 and 113 (See Fig. 1). T-1 and T-3 connections do not use the same type of transport data streams as a radio frequency television broadcast medium or a cable television broadcast medium. For the cable plant 108 to receive data from one transport data stream and transmit the data on a different transport data stream the cable plant must translate the data from the first data transport stream to the second. Thus, a translator is inherent.

In response to argument 6 as described above: see response to arguments 1 and 2.

In response to argument 7 as described above: see response to argument 3.

In response to argument 8 as described above: see response to argument 5.

In response to argument 9 as described above: The applicant appears to be of the impression that for Mimura to disclose that RTP is well known in the art, Mimura must explicitly state "RTP is well known in the art." By Mimura (a patent in the art) disclosing RTP, Mimura is disclosing that RTP is well known in the art.

In response to argument 10 as described above: As presented in the Final Rejection, there is clear motivation to combine Norsworthy with Ahmed (See Final Rejection Paragraph 10 "to allow interactive information rates to be satisfied at a faster rate") and there is clear motivation to further modified Norsworthy with Mimura (See Final Rejection Paragraph 14 "to prevent the degradation of resolution from being caused by transmission delay"). The combination of the motivation to combine Norsworthy with Ahmed and the motivation to further modify Norsworthy with Mimura clearly serves as motivation for the combination of Norsworthy, Ahmed and Mimura.

The applicants' request that the Examiner submit an affidavit under 37 CFR § 1.104(b)(2) is denied, since the Examiner is not making rejections based upon his personal knowledge, but upon teachings in the cited references.

The applicants' request for a reference that discloses limitations not disclosed in Norsworthy is denied, since Norsworthy clearly discloses all the limitations in question.

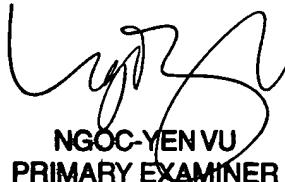
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamieson W. Fish whose telephone number is 571-272-7307. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary, Ngoc Vu can be reached on 571-272-7320. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JF 8-05-2005



NGOC-YEN VU
PRIMARY EXAMINER